

The Odisha Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

No.2364, CUTTACK, SATURDAY, DECEMBER 7, 2024/ MARGASIRA 16, 1946

LABOUR & E.S.I. DEPARTMENT

NOTIFICATION

The 7th December, 2024

S.R.O.No.655/2024—The following draft of certain rules which the State Government propose to make in exercise of the powers conferred by Section 29 of the Boilers Act, 1923 (5 of 1923) (hereinafter referred to as the Act) as amended vide the Jan Vishwas (Amendment of Provisions) Act, 2023, is hereby published as required by Section 31 of the said Act for information of all persons likely to be affected thereby and notice is hereby given that the said draft will be taken into consideration by the State Government on or after the expiry of a period of forty-five days from the date of publication of this notification in the *Odisha Gazette*.

Any objection or suggestion which may be received from any person in respect of the said draft before expiry of the period so specified above will be considered by the State Government. Such objections and suggestions should be addressed to the Director of Factories & Boilers, Odisha, Unit-III, Bhubaneswar-751001 or E-mail on dirdfb.od@gov.in/factblrs.orissa@yahoo.com.

Draft

1. **Short title and commencement.**—(1) These rules may be called the Odisha Boilers (Inquiry, Adjudication and Appeal) Rules, 2024.
(2) They shall come into force on the date of their publication in the Official Gazette.
2. **Definitions.**—(1) In these rules, unless the context otherwise requires,—
 - (a) "Act" means the Boilers Act, 1923 (5 of 1923);
 - (b) "Adjudicating Officer" means the Collector and District Magistrate of the District concerned;
 - (c) "Appellate Authority" means the Secretary to Government of Odisha, Labour & E.S.I. Department.
 - (d) "Chief Inspector" means a person appointed to be a Chief Inspector under the Act;

- (e) "inquiry" means the inquiry mentioned in Section 26A of the Act;
- (f) "Inspector" means a person appointed to be an Inspector under the Act;
- (g) "section" means section of the Act;
- (h) "Owner" shall have a meaning assign to it under clause(d) of Section 2 of the Act;

(2) Words and expressions used and not defined in these rules, but defined in the Act shall have the same meanings respectively assigned to them in the Act

3. Adjudication proceedings under section 26A.—(1) On receipt of a report from the Inspector, the Chief Inspector shall examine the case according to the provisions of the Act, rules and regulations made thereunder under which the owner(s) has been charged as to whether the contraventions are punishable with penalty under sections 22, 23, sub-section (1) of Section 25 or Section 30 or no contravention is established.

(2) If the Chief Inspector decides that such contravention is punishable with penalty under sections 22, 23, sub-section (1) of Section 25 or Section 30, he shall cause and authorize the Inspector to file with the Adjudicating Officer, an application for adjudication of the contravention alleged to have been committed by the person in respect of which the report has been received.

(3) On receipt of the communication from the Chief Inspector authorizing the filing of the adjudication application, the Inspector shall file the application in **Form A** with the Adjudicating Officer for adjudication of the contravention alleged to have been committed.

(4) On receipt of the application for adjudication from the Inspector, the Adjudicating Officer shall commence the inquiry proceedings under section 26A.

(5) For holding an inquiry for the purpose of adjudication under section 26A as to whether any owner(s) has or have committed contravention of any of the provisions of Sections 22, 23, sub-section (1) of Section 25 or Section 30 in respect of which the contravention is alleged to have been committed, the Adjudicating Officer shall, in the first instance, issue a notice in **Form B** to such owner(s) giving him or them an opportunity for hearing in the matter within a period of one month.

(6) The notice to such owners(s) shall indicate the nature of contravention alleged to have been committed by him or them, the sections alleged to have been contravened, and the date of hearing of the matter. A copy of the report of the Inspector shall also be annexed to such notice.

(7) On the date fixed for hearing, the Adjudicating Officer shall explain to the owner(s) or to his authorized representative, the contravention alleged to have been committed by

such person, indicating the provision of the Act in respect of which the contravention is alleged to have taken place.

(8) The Adjudicating Officer shall then give an opportunity to such owner(s) to produce such documents or evidence as he may consider relevant to the inquiry and if necessary, the hearing may be adjourned to a future date:

Provided that the Adjudicating Officer shall pass the final order within 90 days from the date of first hearing mentioned in sub-rule (7).

(9) While holding an inquiry under this rule, the Adjudicating Officer shall have the power to summon and enforce the attendance of any person acquainted with the facts and circumstances of the case to give evidence or to produce any document which, in the opinion of the Adjudicating Officer may be useful for or relevant to the subject matter of the inquiry.

(10) If any person fails, neglects or refuses to appear as required by sub-rules (5) and (6) before the Adjudicating Officer, the Adjudicating Officer may proceed with the inquiry in the absence of such person, after recording the reasons for doing so.

(11) If upon consideration of the evidence produced before the Adjudicating Officer, the Adjudicating Officer is satisfied that the owner(s) against whom the inquiry has been conducted, is liable to penalty under any of the provisions of Sections 22, 23, sub-section (1) of Section 25 or Section 30, he may, by order in writing **in Form C**, impose such penalty as he thinks fit, in accordance with the provisions of the relevant section or sections of the Act.

(12) If, however, the Adjudicating Officer is satisfied that the owner(s) against whom the inquiry has been conducted for the contravention of provisions of the Act, has or have not been proved beyond doubt, the Adjudicating Officer shall dismiss the case.

(13) Every order made under sub-rule (11) shall specify the provisions of the Act in respect of which the contravention has taken place and shall contain brief reasons for such decision. While imposing any penalty, the Adjudicating Officer shall have due regard to the provisions of section 26A and such penalty will be remitted in the form of a treasury challan under the head of account 0230-00-103-0058-02067-000.

(14) Every such order shall be dated and signed by the Adjudicating Officer.

(15) The Adjudicating Officer shall send a copy of the order made under sub-rules (11) or (12) to the owner(s) against whom the inquiry was conducted and the inspector who has filed the application for adjudication,

(16) A notice or an order issued under these rules shall be served on the owner(s) against whom the adjudication proceedings were held or inquiry has been conducted, in any of the following manner:

- (i) by delivering or tendering it to that owner(s) or his duly authorized representative; or
- (ii) by sending it to the owner(s) by registered post or speed post to the address of his place of residence or his last known place of residence or the place where he carried on or last carried on, business or personally works or last worked for gain; or
- (iii) if it cannot be served in the manner specified under clauses (i) or (ii), by affixing it on the outer door or some other conspicuous part of the premises in which that person resides or is known to have last resided or carried on business or personally works or has worked for gain and written report thereof should be witnessed by two persons.

4. Procedure for Appeal under section 26B of the Act.—(1) An appeal under section 26B of the Act, arising out of a decision of the Adjudicating Officer appointed under section 26A of the Act, shall be filed in **Form D** with the Appellate Authority within a period of sixty days from the date on which the copy of the order against which the appeal is filed, is received by the appellant.

(2) An appeal may be admitted after the expiry of the period of sixty days if the appellant satisfies the appellate authority that he had sufficient cause for not preferring the appeal within that period.

(3) The appeal shall be accompanied by a copy of order of Adjudicating Officer issued under sub-rule (11) of rule 4 and a clear statement of facts appealed against, the grounds for appeal and the relevant sections of the Act.

(4) The appeal shall be presented in triplicate by the appellant in person or by his duly authorized agent in writing or by an advocate duly appointed in this behalf or by registered post or speed post and shall be accompanied with the stipulated fee of Rs. 100/- drawn in shape of treasury challan under the head of account 0230-00-103-0058-02067-000.

(5) The appeal sent by post shall be deemed to have been presented to the Appellate Authority on the day it is received.

(6) If on scrutiny, the appeal is found to be in order, it shall be duly registered and given a registration number.

(7) If on scrutiny, the appeal is found to be defective, the same shall, after notice to the party, be returned for compliance and if within 21 days of receipt of such notice or within such extended time as may be granted, the defect is not rectified, the Appellate Authority, may, for reasons to be recorded in writing, decline to register the appeal.

(8) A copy of the Appeal shall be served by the Appellate Authority on the Respondent as soon as it is registered, by hand delivery or by Registered post or speed post.

(9) On admission of the appeal, the Appellate Authority may call for the records relating to the proceedings from the respective Adjudicating Officer.

(10) Respondent may, within thirty days of service of notice of appeal, file reply on the appeal to the Appellate Authority.

(11) The Appellate Authority may, after giving the parties to the appeal an opportunity of being heard, pass such orders as he may think fit, confirming, setting aside the order appealed against.

(12) The order of the Appellate Authority shall be signed and dated. The Appellate Authority shall have powers to pass interim orders or injunction, subject to reasons to be recorded in writing, which he considers necessary in the interest of justice.

(13) A certified copy of every order passed by the Appellate Authority shall be communicated to the Adjudicating Officer and to the parties, as the case may be."

[No.10515—LESI-LL2-LABGNC-0002/2020/LESI.]

By Order of the Governor

CHITHRA ARUMUGAM

Principal Secretary to Government

Form –A
[see rule 3(3)]

To

The Collector & District Magistrate

_____District

Subject: Operation of Boiler in violation of the Boilers Act, 1923

It has come to the knowledge of this office that a boiler having Registration No...../Maker No..... is running in violation of the provision of Boiler Act, 1923 in the premises of M/s_____ at _____(copy of the information / field report is attached).

The following violations have been found in the operation of aforesaid Boiler, which are liable to penalty under Section 22, 23, Sub-section (1) of Section 25 and Section 30 of the Boilers Act, 1923. [Strike out which is not applicable].

- 1.
- 2.
- 3.

Therefore, as per Rule 4 of the Odisha Boilers (Inquiry, Adjudication and Appeal) Rules, 2024, you are kindly requested to take appropriate action as adjudicating officer as per section 26A of the Boilers act, 1923 by sending notice to the aforesaid unit and hold an inquiry, if deemed necessary to impose penalties as per the said Act /Rule.

Inspector of Boilers,.....Zone

FORM B
[see rule 3(5)]

No.
Dated:

To

Sub: Operation of Boiler in Violation of the Boilers Act, 1923

As per the report received from Inspector of Boilers, ...Zone in Form –A vide letter No. _____ dated _____(copy attached), you are running boiler bearing Registration No. ____/Maker No. _____in your factory premises at_____ Since _____ in violation of the following provisions of the Boilers Act, 1923.

- 1.
- 2.
- 3.

Above violations attract penalties, in accordance with Section 22,23, 25(1) & 30 of the Boilers Act 1923. [Strike out which is not applicable].

Through this notice, an opportunity is given to you to explain your position in this regard along with supporting document within 30 days from the receipt of this notice. In case, no reply is received within 30 days, further action shall be taken to impose the penalty as per afore said Act and the Rules.

Collector & District Magistrate,.....District

No.

Dated:

A copy of the above notice is sent to Inspector of Boilers,Zone w.r.t. his letter No. ____ dated _____.

Collector & District Magistrate,.....District

FORM C
[see rule 3(11)]

No.
 Dated:

To

M/s -----

Sub: Operation of Boiler in Violation of the Boilers Act, 1923

You were issued a notice vide No. _____ dated _____ to explain your position for the **Operation of Boiler bearing Registration No. _____ / Maker No. _____ in Violation of the Boiler Act, 1923.**

However, no reply have been received in this office after the expiry of given 30 days.

OR

The explanation given by you along with documentary evidence have been considered and you are thus found liable to pay penalty for illegal boiler use/violation of provisions of the Boilers Act, 1923.

You are hereby directed to pay a sum of Rs. _____ only into Govt. Treasury on or before _____ and to produce a copy of relevant treasury receipt. In case of failure to deposit the amount in time, the amount will be recovered from you as arrears of land revenue. The Boiler is prohibited from further use until approved/ allowed by Inspector of Boilers,Zone under the Boilers Act, 1923.

Collector & District Magistrate,District

**“FORM ‘D’
[see rule 4(1)]**

**Memorandum of Appeal
BEFORE THE APPELLATE AUTHORITY
In the matter of the Boilers Act, 1923**

AND

In the matter of Appeal against the Orders dated _____ passed by the
Adjudicating Officer, _____ (Place)

APPEAL NO. _____ of _____

-----.. **Appellant**

Vs

-----.. **Respondent**

For use in Appellate Authority's Office

Date of presentation of Appeal

**Date of receipt in person /
by an authorised agent in writing /
by an advocate duly appointed in this behalf /
registered post /
speed post**

Status on realisation of stipulated fee amounting ₹100/-

Registration No.

Signature

INDEX

(Specimen Index)

SI. No.	EXHIBIT PARTICULARS No.	Page
1.	Appeal	
2.	Copy of the Show Cause Notice dated _____ issued by the Adjudicating Officer	
3.	Copy of the Reply dated _____ sent by the Appellant to the Show Causes Notice	
4.	Copy of the impugned order dated _____	

APPEAL

1. Particulars of the Appellant

- (i) Name of the Appellant:
- (ii) Address of the Appellant:
- (iii) Address for service of all notices
- (iv) Mobile No. of the Appellant
- (v) E-mail address

2. Particulars of the Respondent

- (i) Name of the Respondent:
- (ii) Address of the Respondent:
- (iii) Address for service of all notices:

3. Jurisdiction of the Appellate Authority

The Appellant declares that the matter of Appeal falls within the jurisdiction of the Appellate Authority.

4. Limitation

The appellant further declares that the Appeal is within the limitation as specified in Section 26B of the Boilers Act, 1923.

5. Facts of the case

Here give a concise statement of facts of the case and grounds of Appeal against the specified order, in a chronological order, each paragraph containing as neatly as possible as separate issue, fact or otherwise)

6. Relief(s) sought

In view of the facts mentioned in paragraph 5 and the grounds on which the impugned order is challenged, the Appellant prays for the following relief(s):

(Here specify the relief(s) sought and the legal provisions, if any, relied upon)

7. Interim relief(s) sought (if prayed for)

Pending the final decision in the Appeal, the Appellant seeks the following interim relief(s).

(Here specify the interim relief(s) prayed for and the reasons therefore)

8. Matters not pending with any other court

The Appellant further declares that the matter regarding which this Appeal has been filed is not pending before any court of law or any other authority or any other Tribunal.

9. Details of Index

An index containing the details of the documents relied upon is enclosed.

10. List of enclosures

(Signature of the Appellant)

VERIFICATION

I, _____ son / daughter / wife / husband of Mr. _____
being the Appellant do hereby verify that the contents of paragraphs 1 to 10 are true to my
personal knowledge and belief and that I have not suppressed any material fact. I further declare to
forthwith bring all other facts in the matter before the Appellate Authority immediately, in the event
of coming across at a later date / time.

(Signature of the Appellant)

Place:

Date: